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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

STEVEN BRODY et al., on behalf of  
themselves and all others similarly  
situated,

Plaintiff,

vs.

MERCK & CO., INC., f/k/a  
SCHERING-PLOUGH CORPORATION,  
et al.,

Defendants.

Case No. 3:12-cv-04774-PGS-DEA

*DOCUMENT ELECTRONICALLY  
FILED*

**DECLARATION OF MITCHELL M.Z. TWERSKY IN SUPPORT OF  
PLAINTIFFS' MOTION TO REQUIRE POSTING OF APPEAL BONDS  
BY OBJECTOR-APPELLANTS**

I, Mitchell M.Z. Twersky, Esq., declare as follows:

1. I am a partner in the law firm of Abraham, Fruchter & Twersky, LLP (“AF&T”), which has been appointed Settlement Class Counsel in this action. Gary S. Graifman, of Kantrowitz, Goldhamer & Graifman, P.C. is AF&T’s New Jersey-based liaison counsel in this action.

2. I submit this Declaration in support of Plaintiffs’ Motion to Require Posting of Appeal Bonds by Objector-Appellants (the “Motion”). I make the statements herein based upon my personal knowledge and experience handling numerous appeals in representative and class actions.

3. Based on the allowable taxable costs set forth in the applicable court rules of the Third Circuit, including Appellate Rule 3d Cir. L.A.R. 39.3, I estimate that the taxable costs on appeal will be approximately \$12,500.

4. In addition, I estimate that AF&T will incur attorneys’ fees in the range of \$200,000 in connection with briefing and arguing the pending appeals by Objector-Appellants.<sup>1</sup> This estimate is based on not only the anticipated time involved in researching, briefing, and presenting oral argument in opposition to the contentions of each of the three Objector-Appellants, but also attorney time involved in responding to any motions for rehearing or petitions for certiorari

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<sup>1</sup> All capitalized terms used in the Motion and accompanying memorandum of law are hereby incorporated by reference herein.

review to the U.S. Supreme Court that Objector-Appellants may file. This estimate is also based on the hourly rates of the attorneys at AF&T who would be involved in handling the appeals, which are as follows:

<b>Attorney/Paralegal</b>	<b>Title</b>	<b>Hourly Billing Rate</b>
Mitchell M.Z. Twersky	Partner	\$750
Jack Fruchter	Partner	\$750
Ian Berg	Of Counsel	\$575
Lawrence Levit	Of Counsel	\$685
Takeo Kellar	Associate	\$475
Ximena Skovron	Associate	\$475
Arthur Chen	Associate	\$425
Wei Chen	Associate	\$395
Philip Taylor	Associate	\$395
Paralegal	Paralegal	\$150

This estimate, however, does not take into account any attorneys' fees incurred by liaison counsel in assisting us with the appeals.

5. The estimate in the preceding paragraph is also based on my personal experience in handling appeals. For example, in *Analytical Surveys, Inc. v. Tonga Partners, et al.*, No. 09-2622-cv (2d Cir.), a recent appeal that AF&T successfully defended on behalf of our client, Analytical Surveys, Inc., against a single

appellant, AF&T incurred in excess of \$200,000 in attorneys' fees in briefing the appeal, the petition for rehearing, and the petition for *certiorari* review.

6. The estimate for the anticipated taxable costs that will be incurred in defending against the Objector-Appellants' appeals, provided in paragraph 3 above, is based on the costs incurred in an appeal that AF&T brought in the related *Gaston v. Schering-Plough, et al.*, No. B214935, challenging the denial of class certification to the Court of Appeal for the State of California, Second Appellate District. Specifically, AF&T paid \$9,787.20 in printing costs to print the Appellants' Appendix, which consisted of nine volumes. In addition, 3d Cir. L.A.R. 39.3(a) provides that costs may be taxed on 10 copies of the brief to the Court, two copies to the prevailing party and one copy to each of the three sets of objectors, which amounts to 15 copies of the brief in opposition in each appeal, for a total of 45 copies. Plaintiffs estimate that the brief with all tables and certifications would be approximately 65 pages. 3d Cir. L.A.R. 39.3(c)(2) also provides the rate for copying at \$0.10 per page, \$4.00 for binding each copy and \$40.00 for each cover plus applicable sales tax. At these rates, production of Plaintiffs' briefs in opposition would cost approximately \$2,454.30 for the three appeals. Even if Plaintiffs were to submit an omnibus brief, which would lower costs, this cost estimate does not include the cost of printing briefs for any motion

practice for summary action under 3d Cir. L.A.R. 27.4 and any petitions for rehearing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16<sup>th</sup> day of May, 2013, at New York, New York.

  
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Mitchell M.Z. Twersky